

REMARKS

In response to the final Office Action dated July 23, 2008, the Assignee respectfully requests continued examination and reconsideration based on the above amendments and on the following remarks.

Claims 1-2, 4-8, 10-13, and 15-16 are pending in this application. Claims 3, 9, and 14 have been canceled without prejudice or disclaimer.

IDS Acknowledgment of WO 00/41426

Examiner Sikri is thanked for "signing off" on WO 00/41426 in the IDS submitted November 8, 2007

Rejection of Claims under § 103 (a) over *Logan & Ando*

The Office rejected claims 1-2, 10-12, 15, and 16 under 35 U.S.C. § 103 (a) as allegedly being obvious over U.S. Patent Application Publication 2003/0093790 to Logan, *et al.* in view of U.S. Patent Application Publication 2003/0126610 to Ando.

These claims, however, cannot be obvious over *Logan* with *Ando*. Some of these claims already recite, or incorporate, many features that are not disclosed or suggested by the combined teaching of *Logan* with *Ando*. Independent claims 15 and 16, for example, already recite "*determining a subcontracted processing service is required from a different service provider*" and "*grouping together individual packets of data that require the subcontracted processing service as a new segment*" (emphasis added). Independent claims 15 and 16 also recite "*subcontracting the new segment to the different service provider to receive the subcontracted processing service*" and "*receiving a subcontracted result of the subcontracted processing service*" (emphasis added). Independent claim 1 has been amended to recite similar features.

The combined teaching of *Logan* and *Ando* does not obviate at least these features. As the Assignee has previously explained, *Logan* segments broadcast programming and uses demographics and preferences to select segments that match the needs of users. See U.S. Patent Application Publication 2003/0093790 to Logan, *et al.* at paragraphs [0043], [0045], and [0047]. Even so, *Logan* completely fails to teach or suggest the “*subcontracting*” features of the independent claims.

The Office now alleges that *Ando* teaches these “*subcontracting*” features. The Office even cites to several paragraphs within *Ando*, but the Office is, very respectfully, mistaken. *Ando* describes a request for reserving a frequency band (or maximum packet length) in a network route. See U.S. Patent Application Publication 2003/0126610 to Ando at paragraphs [0090] and [0091]. As the Assignee explains below, *Ando* fails to teach, suggest, or even contemplate the “*subcontracting*” features of the independent claims. *Ando*, quite simply, has nothing to do with “*subcontracting*.”

The Office, for example, cites to *Ando*’s paragraph [0042]. This paragraph is reproduced in its entirety below:

[0042] More specifically, this IP streaming system includes an headend system 10 which stores many types of multimedia contents and executes distribution processing of multimedia contents such as videos for which viewing requests are sent from users, a network 20 having, for example, a ring-topology configuration, and a plurality of distribution HUBs 30.

U.S. Patent Application Publication 2003/0126610 to Ando at paragraph [0042]. As the Office should now realize, this paragraph makes absolutely no mention of “*determining a subcontracted processing service is required from a different service provider*” or “*grouping together individual packets of data that require the subcontracted processing service as a new segment*” (emphasis added). *Ando*’s paragraph [0042] is equally silent to “*subcontracting the new segment to the different service provider to receive the subcontracted processing service*” and “*receiving a subcontracted result of the subcontracted processing service*” (emphasis added). *Ando*’s paragraph [0042], then, does not teach what the Office alleges.

The Office also cites to *Ando's* paragraph [0045], but the Office is again mistaken. *Ando's* paragraph [0045] is reproduced in its entirety below:

[0045] This navigation server 11 incorporates an EPG (Electronic Program Guide) which becomes a menu window which is possessed by the server 11 itself and can be browsed, navigation server software, other necessary software, and the like, and executes required processing while securing cooperation among the EPG and various pieces of software. When a request to view a given content is sent from a user, the navigation server 11 receives the type of requested content. If a VOD content is requested, the navigation server 11 notifies the distribution server 12 of the corresponding information. Assume that the requested content is distributed by broadcasting, the navigation server 11 does not notify the distribution server 12.

U.S. Patent Application Publication 2003/0126610 to Ando at paragraph [0045]. This paragraph discusses a “navigation server” that stores an EPG and notifies a distribution server of requested video-on-demand content. This paragraph is entirely silent to *“determining a subcontracted processing service is required from a different service provider”* or *“grouping together individual packets of data that require the subcontracted processing service as a new segment”* (emphasis added). *Ando's* paragraph [0045] is also silent to *“subcontracting the new segment to the different service provider to receive the subcontracted processing service”* and *“receiving a subcontracted result of the subcontracted processing service”* (emphasis added). *Ando's* paragraph [0045], then, does not teach what the Office alleges.

The Office also cites to *Ando's* paragraph [0046]. Again, though, the Office is, respectfully, mistaken. *Ando's* paragraph [0046] is reproduced in its entirety below:

[0046] This distribution server 12 has a large-capacity distribution information database 12a which stores many types of multimedia contents, band information and necessary distribution time information required to distribute the respective contents, and other information required for distribution, and has the function of managing distribution information including various types of contents. Upon reception of a distribution request for a VOD content from the navigation server 11 on the basis of request source information such as an IP address, the distribution server 12 reads out the requested content from the distribution information database 12a, and distributes to the user on the basis of the request source information. In contrast, a broadcast content is

distributed by using a multicasting technique such as IP multicasting. Note that a broadcast content is set in advance on the basis of the use frequency in the past or a use frequency is set in advance and a content whose use frequency exceeds the reference use frequency is automatically recognized as a broadcast content. Alternatively, such contents are determined in accordance with a contract with a contents provider.

U.S. Patent Application Publication 2003/0126610 to Ando at paragraph [0046]. This paragraph also discusses the “distribution server” that distributes VOD content to a requesting user. The last sentence of *Ando*’s paragraph [0046] briefly mentions a “contract with a contents provider.” This meager disclosure, however, cannot be reasonably interpreted as “*determining a subcontracted processing service is required from a different service provider*” or “*grouping together individual packets of data that require the subcontracted processing service as a new segment*” (emphasis added). *Ando*’s paragraph [0046] is also silent to “*subcontracting the new segment to the different service provider to receive the subcontracted processing service*” and “*receiving a subcontracted result of the subcontracted processing service*” (emphasis added). *Ando*’s paragraph [0046], then, does not teach what the Office alleges.

Claims 1-2, 4-8, 10-13, and 15-16, then, are not obvious over the proposed combination of *Logan* and *Ando*. Independent claims 1, 15, and 16 recite many features that are not taught or suggested by *Logan* and *Ando*. The respective dependent claims incorporate these same features and recite additional features. One of ordinary skill in the art, then, would not think that claims 1-2, 4-8, 10-13, and 15-16 are obvious. The Office is thus respectfully requested to remove the § 103 (a) final rejection of these claims.

Rejection of Claims under § 103 (a) over *Ando*, *Logan* & *McKinnin*

The Office rejected claims 4-8 and 13 under 35 U.S.C. § 103 (a) as allegedly being obvious over *Ando* in view of *Logan* and further in view of U.S. Patent 6,917,628 to *McKinnin, et al.*

Claims 4-8 and 13, though, are not obvious over the combined teaching of *Ando*, *Logan* and *McKinnin*. These claims ultimately depend from independent claim 1 and, therefore,

incorporate the same distinguishing features. As the above paragraphs already explained, both *Logan* and *Ando* fail to teach or suggest at least “determining a subcontracted processing service is required from a different service provider” and “grouping together individual packets of data that require the subcontracted processing service as a new segment” (emphasis added). The combined teaching of *Logan* and *Ando* also fails to teach or suggest at least “subcontracting the new segment to the different service provider to receive the subcontracted processing service” and “receiving a subcontracted result of the subcontracted processing service” (emphasis added).

McKinnin does not cure *Logan* and *Ando*’s deficiencies. *McKinnin* allocates bandwidth to users of cable modems. See U.S. Patent 6,917,628 to *McKinnin, et al.* at column 7, lines 54-58. Bandwidth consumed is compared to a bandwidth allowance. See *id.* at column 10, lines 35-41 and at column 11, lines 1-5. Available bandwidth may be prioritized amongst cable modems, based on “prioritization policies,” such as a user’s service level agreement guarantees. See *id.* at column 13, line 45 through column 14, line 40. Even “fairness considerations” may be considered when prioritizing bandwidth between cable modems. See *id.* at column 14, lines 46-67.

Even so, *Ando*, *Logan* and *McKinnin* do not obviate independent claim 1. The proposed combination of *Ando*, *Logan* and *McKinnin* fail to teach or suggest “determining a subcontracted processing service is required from a different service provider” and “grouping together individual packets of data that require the subcontracted processing service as a new segment” (emphasis added). The combined teaching of *Ando*, *Logan* and *McKinnin* also fails to teach or suggest at least “subcontracting the new segment to the different service provider to receive the subcontracted processing service” and “receiving a subcontracted result of the subcontracted processing service” (emphasis added). Because *Ando*, *Logan* and *McKinnin* fail to teach or suggest at least these features, one of ordinary skill in the art would not think that independent claim 1 is obvious.

Moreover, the dependent claims also recite distinguishing features. Dependent claim 4, for example, recites “issuing an assertion to a different service provider that indicates the

different service provider correctly performed the processing service according to a Service Level Agreement." The Office now cites to *Ando's* paragraphs [0045] and [0046]. As the Assignee demonstrated above, though, these paragraphs cannot reasonably be interpreted to teach or suggest the "subcontracting" features of independent claim 1, and *Ando's* paragraphs [0045] and [0046] also fail to teach or suggest claim 4's "assertion." The proposed combination of *Ando*, *Logan* and *McKinnin*, quite simply, fails to teach or suggest the entire concept of "assertions ... that indicat[e] the different service provider correctly performed the processing service according to a Service Level Agreement." Even though *McKinnin* discusses service level agreements, *McKinnin* teaches nothing like assertions to a different service provider. As dependent claims 5-8 depend from claim 4, claims 5-8 are, likewise, patentably distinguishable over *Ando*, *Logan* and *McKinnin*.

Claims 4-8 and 13, then, are not obvious over the proposed combination of *Ando*, *Logan* and *McKinnin*. Independent claim 1 recites many features that are not taught or suggested by *Ando*, *Logan* and *McKinnin*. Dependent claims 4-8 and 13 incorporate these same features and recite additional features. One of ordinary skill in the art, then, would not think that claims 4-8 and 13 are obvious. The Office is thus respectfully requested to remove the § 103 (a) final rejection of these claims.

If any issues remain outstanding, the Office is requested to contact the undersigned at (919) 469-2629 or scott@scottzimmerman.com.

Respectfully submitted,



Scott P. Zimmerman
Attorney for the Assignee, Reg. No. 41,390